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EXAMINER	
SHELEHEDA, JAMES R	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/882,091	CONNELLY, JAY H.	
	Examiner	Art Unit	
	James Sheleheda	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *129* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *129* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-129 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-129 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dudkiewicz (US 2002/0152474 A1) (of record) in view of Shah-Nazaroff et al. (Shah-Nazaroff) (6,317,881) (of record) and Herz et al. (Herz) (5,758,257).

As to claim 1, while Dudkiewicz discloses a method, comprising:

receiving broadcast communications including content descriptors via a first communications link from a broadcast source (paragraphs 53, 64 and 75), the content descriptors including descriptors of a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are received from the broadcast source (in regards to upcoming content; paragraph 53);

performing an automated rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback (paragraph 79), the rating algorithm

includes a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose transmitting the rating feedback via a second communications link to a remote location and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of

ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include transmitting the rating feedback via a second communications link to a remote location, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 36, while Dudkiewicz discloses an apparatus (Fig. 10), comprising:

a processor (Fig. 10; paragraph 74);

a memory, coupled to the processor (Fig. 10; paragraph 74), to store a plurality of machine instructions including an automated rating algorithm (Fig. 10; paragraph 74);

a storage device, coupled to the processor (Fig. 10), to store content pieces (paragraph 82); and

a communications interface, coupled to the processor (Fig. 10), which enables the apparatus to receive broadcast communications from a broadcast source via a first

communications link (paragraphs 53, 64, 74 and 75), the broadcast communications including a plurality of content descriptors that describe a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are received from the broadcast source (in regards to upcoming content; paragraph 53); and

wherein execution of the machine instructions by the processor causes the apparatus to receive the content descriptors as they are broadcast (paragraph 74), to perform the automated rating algorithm to generate the rating feedback (paragraph 74 and 79), the rating feedback corresponding to at least a portion of the plurality of content pieces (paragraph 79), the rating algorithm includes a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose transmitting the rating feedback to the broadcast source and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column

6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote server (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include transmitting the rating feedback to the broadcast source, as taught by Shah-Nazaroff, for the typical benefit of

allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 61, while Dudkiewicz an article of manufacture (client device, 26), comprising:

a machine readable medium (Fig. 10; paragraph 74) that provides instructions which, when executed by a machine (paragraph 74), cause the machine to:

receive broadcast communications including content descriptors via a first communications link from a broadcast source (paragraphs 53, 64 and 75), the content descriptors including descriptors of a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are received from the broadcast source (in regards to upcoming content; paragraph 53); and

perform an automated rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback (paragraph 79), the rating algorithm includes a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user

preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose transmitting the rating feedback via a second communications link to a remote location and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include transmitting the rating feedback via a second communications link to a remote location, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 83, while Dudkiewicz discloses a broadcast system (Fig. 1), comprising:

broadcasting broadcast communications including content descriptors via a first communications link from a broadcast source (paragraphs 53, 64 and 75), the content descriptors including descriptors of a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are broadcast from the broadcast source to the client systems (in regards to upcoming content; paragraph 53); and

a rating feedback comprising a rating generated by the client system of at least a portion of the plurality of content pieces (paragraph 79), wherein the client system

includes a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose receiving a rating feedback from the plurality of client systems via a second communications link and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of

ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include receiving a rating feedback from the plurality of client systems via a second communications link, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 94, while Dudkiewicz discloses a broadcast system (Fig. 1), comprising:

a server (Fig. 1); and

at least one communications link to transmit broadcast communications including content descriptors to a plurality of client systems (paragraphs 53, 64 and 75), the content descriptors including descriptions of a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are transmitted to the client system (in regards to upcoming content; paragraph 53); and

a rating feedback comprising a rating generated by each of the client systems of at least a portion of the plurality of content pieces (paragraph 79), and the client system uses a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose transmitting the rating feedback to the server and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote server (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the

headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include transmitting the rating feedback to the server, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 103, while Dudkiewicz an article of manufacture, comprising:

a machine readable medium (Fig. 10; paragraph 74) that provides instructions which, when executed by a machine (paragraph 74), cause the machine to:

broadcast broadcast communications including content descriptors via a first communications link from a broadcast source to a plurality of client systems via a first communications link (paragraphs 53, 64 and 75), the content descriptors including descriptors of a plurality of corresponding content pieces (paragraphs 55-59)

independent of whether the content pieces are received from the broadcast source (in regards to upcoming content; paragraph 53); and

a rating feedback comprising a rating generated by each of the client systems of at least a portion of the plurality of content pieces (paragraph 79), the client system uses a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose receiving the rating feedback via a second communications link and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include receiving the rating feedback via a second communications link, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 112, while Dudkiewicz discloses a system (Fig. 1), comprising:

a server (Fig. 1); and

at least one communications link (paragraph 53); and

a client system (client device, 26), the client system including a processor and a memory to store an automated rating algorithm (paragraph 74 and 79); and wherein

a plurality of content descriptors are transmitted via the at least one communications link to the client system (paragraphs 53, 64 and 75), the plurality of content descriptors including descriptions of a plurality of content pieces (paragraphs 55-59) independent of whether the content pieces are transmitted to the client system (in regards to upcoming content; paragraph 53);

the processor implements the automated rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback (paragraph 74 and79), the rating algorithm includes a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose transmitting the rating feedback via the lat least one communications link to the server and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column

6, lines 39-47) and transmitted to a remote server (column 3, lines 56-62) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include transmitting the rating feedback via the lat least one communications link to the server, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claim 120, while Dudkiewicz discloses a method, comprising:

broadcasting content descriptors from a server to at least one client system via at least one communications link (paragraphs 53, 64 and 75), the content descriptors including descriptors of a plurality of corresponding content pieces (paragraphs 55-59) independent of whether the content pieces are received from the broadcast source (in regards to upcoming content; paragraph 53);

receiving the content descriptors at the at least one client system (paragraphs 53, 64 and 75);

rating at least a portion of the plurality of content pieces by the client system to generating a rating feedback (paragraph 79), and wherein the client system uses a consideration of a relevance value indicating a relevance of the content descriptors for predicting a user's selection of the corresponding content pieces (user preference value; Fig. 15; paragraph 77-78 and 85) and a believability factor indicating an accuracy level of a particular content descriptor in predicting the user's selection of the corresponding content pieces (goodness of fit; Fig. 15; paragraphs 69-70 and 85-87) and the relevance value and the believability factor are automatically updated (paragraph 79-80, 84 and 95), he fails to specifically disclose communicating the rating feedback to the server periodically via the at least one communications link and wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source.

In an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) wherein ratings feedback data related to content items (column 3, lines 22-55 and column 6, lines 23-59) are generated based upon received content descriptors (column 6, lines 39-47) and transmitted to a remote location (column 3, lines 56-62) periodically (storing and transmitting several responses; see Shah-Nazaroff at column 6, lines 48-59) for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences (column 4, lines 43-54, column 6, lines 11-22 and column 6, line 60-column 7, lines 1-9).

Additionally, in an analogous art, Herz discloses a broadcast system (Fig. 5; column 41, line 57-column 42, line 11) wherein viewer preference information is transmitted to the headend (column 41, lines 19-41) and wherein a broadcast schedule is determined from the preference information prior to broadcasting content from the headend (column 4, lines 18-58 and column 41, lines 20-28) for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted (column 2, line 65-column 3, line 16column 4, lines 18-32).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz's system to include communicating the rating feedback to the server periodically via the at least one communications link, as taught by Shah-Nazaroff, for the typical benefit of allowing providers to customize programming and program guide services based upon viewer ratings and preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz and Sha-Nazaroff's system to

include wherein a broadcast schedule is determined from the rating feedback prior to broadcasting the content pieces from the broadcast source, as taught by Herz, for the typical benefit of ensuring that only content which is predicted to be most desirable to customers is arranged and transmitted.

As to claims 2, 39, 62, 86 and 106, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the first communications link and the second communications link comprise a common transmission platform (see Dudkiewicz at paragraph 53 and Shah-Nazaroff at column 4, lines 56-62).

As to claims 3, 40, 63, 87 and 107, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the first communications link and the second communications link comprise separate transmission platforms (see Dudkiewicz at paragraph 53).

As to claims 4, 37, 64, 84, 95, 104, 113 and 122, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating feedback comprises a list of a plurality of content pieces (see Dudkiewicz at paragraph 79 and Shah-Nazaroff at column 6, lines 48-59), and wherein transmitting the rating feedback comprises periodically transmitting a batch of the rating feedback to the remote location (storing and transmitting several responses; see Shah-Nazaroff at column 6, lines 48-59), the remote location being linked to the broadcast center (see Dudkiewicz at paragraph 79 and Shah-Nazaroff at Fig. 1; column 6, lines 48-59).

As to claims 5, 38, 65, 85, 96, 105, 114 and 123, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating feedback comprises a single rated content piece (see Shah-Nazaroff at column 6, lines 48-59), and wherein transmitting the rating feedback comprises transmitting the rating feedback to the remote location in real-time (transmitting the questionnaire as it is completed; see Shah-Nazaroff at column 6, lines 48-59).

As to claims 6, 41, 66 and 88, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the second communications link comprises a continuous connection to the remote location (cable, optical; see Shah-Nazaroff at column 3, line 15-21), the remote location being linked to the broadcast source (see Shah-Nazaroff at Fig. 1).

As to claims 97, 108, 118 and 124, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the at least one communications link comprises a continuous connection (cable, optical; see Shah-Nazaroff at column 3, line 15-21), to transmit rating feedback from the plurality of client systems to the server (see Shah-Nazaroff at Fig. 1, column 3, lines 56-62).

As to claims 7, 42, 67, 89, 98, 109, 119 and 125, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the second communications link comprises a connection to the remote location that is initiated to transmit the rating feedback (Internet, telephone lines;

see Shah-Nazaroff at column 3, line 15-21), the remote location being linked to the broadcast source (see Dudkiewicz at paragraph 79 and Shah-Nazaroff at Fig. 1; column 6, lines 48-59).

As to claims 9, 44, 90 and 99, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the content descriptors comprise a continuous stream of data that may be tapped at any time to rate at least a portion of the plurality of content pieces via the rating algorithm (see Dudkiewicz at paragraph 79).

As to claims 10 and 45, Dudkiewicz, Shah-Nazaroff and Herz disclose

receiving broadcast communications including the plurality of content pieces (see Dudkiewicz at paragraph 82); and

performing a capture algorithm to selectively determine, which, if any, of the content pieces should be cached (see Dudkiewicz at paragraph 79 and 82-84), and

wherein the rating algorithm is identical to the capture algorithm (see Dudkiewicz at paragraph 79 and 82-84).

As to claims 11 and 68, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of any existing cached data files to generate the rating feedback (see Dudkiewicz at paragraph 79).

As to claims 12, 47 and 69, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the content descriptors include data pertaining to a revenue-generating potential of at least a portion of the content pieces (discount incentive for a particular broadcast; see Shah-Nazaroff at column 3, lines 33-44), and the rating algorithm includes a consideration of the content piece's revenue generating potential when generating the rating feedback (including a discount for content; see Shah-Nazaroff at column 3, line 33-44).

As to claims 13, 48 and 70, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79-81).

As to claims 14, 20, 49, 55, 71 and 77, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claims 15, 50 and 72, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (see Dudkiewicz at paragraph 79).

As to claims 16, 51 and 73, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of an availability window corresponding to a content piece to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claims 17, 52 and 74, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claims 19, 54 and 76, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claims 91, 100 and 110, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating of at least a portion of the plurality of content pieces is generated via a rating algorithm of the client system (see Dudkiewicz at paragraph 79).

As to claims 93, 102 and 129, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating feedback is received from each of the plurality of client systems independently (wherein each user system independently performs and transmits their

feedback; see Dudkiewicz at paragraph 79 and Shah-Nazaroff at column 6, lines 23-59).

As to claims 21, 56 and 78, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Shah-Nazaroff at Figs. 4 and 6).

As to claims 22, 57, 79 and 111, Dudkiewicz, Shah-Nazaroff and Herz disclose generating a display on a display device that provides a user-interface that enables a user to rate content pieces so as to indicate a level of desirability for those content pieces if they are broadcast by the broadcast system (see Shah-Nazaroff at column 3, lines 47-55; Figs. 4 and 6).

As to claims 23, 58, 80, 115 and 126, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the user rates at least a portion of the content pieces (see Shah-Nazaroff at column 6, lines 23-34).

As to claims 24, 59, 81, 116 and 127, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm automatically rates at least a portion of the content pieces (see Dudkiewicz at paragraph 79).

As to claims 25, 60 and 82, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm automatically rates at least a portion of the content pieces that were not rated by the user (see Dudkiewicz at paragraph 79).

As to claims 117 and 128, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating feedback includes user rating of the content pieces (user rating of viewed programs; see Shah-Nazaroff at column 6, lines 23-34) and automated rating of the content pieces (automatic rating of every upcoming program; see Dudkiewicz at paragraph 79).

As to claim 26, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79-81).

As to claims 27 and 33, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claim 28, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (see Dudkiewicz at paragraph 79).

As to claim 29, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of an availability window corresponding to a content piece to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claim 30, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claim 32, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (see Dudkiewicz at Fig. 7, paragraph 73 and 79).

As to claim 34, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Shah-Nazaroff at Figs. 4 and 6).

As to claim 35, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating algorithm includes a consideration of any existing cached data files to generate the rating feedback (see Dudkiewicz at paragraph 79).

As to claim 46, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein at least one content piece is cached in the storage device (paragraph 82), and the rating algorithm considers the at least one content piece that is cached when generating the rating feedback (paragraph 79).

As to claim 92 and 101, Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the rating feedback includes user rating of content pieces to indicate a level of desirability in receiving those content pieces if they are broadcast by the broadcast system (desirability of seeing the movies in the future; see Shah-Nazaroff at Fig. 6).

As to claim 121, Dudkiewicz, Shah-Nazaroff and Herz discloses processing the rating feedback to generate an aggregate representation of the feedback from the at least one client system (see Shah-Nazaroff at Figs. 5 and 7; column 4, lines 20-26 and column 5, line 54-column 6, line 22), and

selecting a portion of the plurality of content pieces to be sent to the that least one client system in response to the aggregate representation of the feedback (see Shah-Nazaroff at column 6, line 60-column 7, line 9).

As to claims 18, 31, 53 and 75, while Dudkiewicz, Shah-Nazaroff and Herz disclose wherein content descriptors include data pertaining to the content piece (see Dudkiewicz at paragraph 74, Fig. 7) and the rating algorithm takes into consideration the data pertaining to the content piece to generate the rating feedback (see Dudkiewicz

at paragraph 74, Fig. 7 and Shah-Nazaroff at column 7, lines 33-42), they fail to specifically disclose the content piece's past revenue performance.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to provide past revenue performance information, which could include video sales, box office receipts or the user's own pay-per view ordering or rental history, for the typical benefit of providing the user with as much information as possible to accurately determine their current interest and preferences towards the content.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz, Shah-Nazaroff and Herz's system to include the content piece's past revenue performance for the typical benefit of providing the user with as much information as possible to accurately determine their current interest and preferences towards the content.

As to claims 8 and 43, while Dudkiewicz, Shah-Nazaroff and Herz disclose wherein the broadcast communications include content descriptors which are received at pre-determined time intervals (at the end of a broadcast or in a batch at some prior time period; see Dudkiewicz at paragraph 75 and 79 and Shah-Nazaroff at column 6, lines 23-59), they fail to specifically disclose receiving a schedule pertaining to when the content descriptors will be broadcast prior to the content descriptors and utilizing the schedule to enable receipt of the content descriptors.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to provide a schedule indicating when/how data is to be received for the typical benefit of providing a means to ensure that a receiver will correctly receive data transmissions.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Dudkiewicz, Shah-Nazaroff and Herz's system to include receiving a schedule pertaining to when the content descriptors will be broadcast prior to the content descriptors and utilizing the schedule to enable receipt of the content descriptors for the typical benefit of providing a means to ensure that a receiver will correctly receive data transmissions.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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